

**ACCEPTANCE OF A GUILTY PLEA BY A CORPORATE ENTITY
(FED. R. CRIM. P. 11)**

1. **[To Nonlawyer Representative]** ARE YOU AN AUTHORIZED OFFICER/AGENT FOR _____?

2. ARE YOU AUTHORIZED BY A VOTE OF THE BOARD OF DIRECTORS TO SPEAK AND ACT ON ITS BEHALF THROUGHOUT THIS PROCEEDING?

**[Make record re entry in evidence of a certified resolution
of the Board of Directors.]**

3. **[To Lawyer]** HAS THE CORPORATION AUTHORIZED YOU, MR/MS _____, TO ACT AS ITS ATTORNEY HEREIN?

4. IN THE FURTHER COURSE OF THIS INQUIRY I WANT YOU TO UNDERSTAND TWO PROPOSITIONS THROUGHOUT:

(A) IF AT ANY TIME YOU DON'T UNDERSTAND ANY QUESTION I ASK YOU, DON'T TRY TO ANSWER IT. TELL ME YOU DON'T UNDERSTAND AND I WILL REPHRASE IT.

(B) IF AT ANY TIME YOU WANT TO TALK TO YOUR LAWYER, DON'T TRY TO ANSWER MY QUESTION -- TELL ME YOU WANT TO TALK TO YOUR LAWYER AND I'LL PERMIT YOU TO DO SO.

(C) EXPLAIN PURPOSE OF RULE 11 HEARING AND MY QUESTIONS.

5. IS IT THE CORPORATION'S INTENTION TO TENDER A PLEA TO "GUILTY" TO COUNTS ____ TO ____ OF THE INDICTMENT/INFORMATION AT THIS TIME?

6. **[To Lawyer]** DO YOU CONCUR IN ITS DECISION TO DO SO?

7. IS THAT ACTION LEGALLY AUTHORIZED BY THE BOARD OF DIRECTORS OF THE DEFENDANT?

[Certified Resolution required]

8. THE CLERK MAY PROCEED.

[Clerk obtains tender of a guilty plea]

9. **[To Officer/Agent]** HAS _____ PLEADED GUILTY TO THE CHARGES CONTAINED IN COUNTS ____ AND ____ OF THIS INDICTMENT/INFORMATION BECAUSE IT IS GUILTY AS CHARGED?
10. **[To Lawyer]** ARE YOU SATISFIED THAT THIS DEFENDANT HAS TENDERED THIS/THESE PLEA[S] OF GUILTY BECAUSE IT IS ACTUALLY GUILTY AS CHARGED?
11. **[To Officer/Agent]** HAVE YOU AND THE OFFICERS AND DIRECTORS OF THE CORPORATE DEFENDANT RECEIVED A COPY OF THE INDICTMENT/INFORMATION IN THIS CASE?
12. **[To Officer/Agent]** HAVE THE OFFICERS AND DIRECTORS OF THE DEFENDANT DISCUSSED THE CHARGE[S] SET OUT IN THE INFORMATION/INDICTMENT WITH ITS LAWYER?
13. DID THEY HAVE ENOUGH TIME TO DO SO?
14. DID THE LAWYER EXPLAIN TO YOU AND THEM:
- (A) THE ELEMENTS AND NATURE OF THE OFFENSES CHARGED?
 - (B) THE PENALTIES THAT MAY BE IMPOSED FOR CONVICTION OF THOSE OFFENSES?

- 15. [To Lawyer]** ARE YOU SATISFIED THAT THE OFFICERS AND DIRECTORS OF THE CORPORATE DEFENDANT UNDERSTAND THE CHARGES CONTAINED IN COUNTS ____ AND ____ OF THE INDICTMENT/INFORMATION?
- 16. [To Officer/Agent]** BY PLEADING GUILTY TO THESE CRIMES THE DEFENDANT COULD BE SUBJECTED TO PUNISHMENT OF:
- (A) A MANDATORY ASSESSMENT OF \$200 ON EACH OF THESE COUNTS ON WHICH THE DEFENDANT IS CONVICTED, FOR A TOTAL OF \$_____.
 - (B) TOTAL FINES OF UP TO \$_____.
 - (C) PROBATION OF UP TO _____.
 - (D) FULL RESTITUTION OF ANY PECUNIARY INJURY TO ANY VICTIM OF THE OFFENSE.
- 17.** DO YOU AND THE OFFICERS AND DIRECTORS UNDERSTAND THAT THE DEFENDANT HAS THE RIGHT TO CONTINUE TO PLEAD NOT GUILTY TO THESE CHARGES?
- 18.** DO YOU AND THEY UNDERSTAND THAT THE DEFENDANT HAS A RIGHT TO A TRIAL BY JURY AND THE ASSISTANCE OF THE CORPORATION'S LAWYER AT SUCH A TRIAL?
- 19.** DO YOU AND THEY UNDERSTAND THAT AT SUCH A TRIAL THE GOVERNMENT WOULD HAVE TO PROVE THE DEFENDANT GUILTY BY COMPETENT EVIDENCE AND BEYOND A REASONABLE DOUBT, AND THAT

THE DEFENDANT WOULD NOT HAVE TO PROVE THAT IT IS NOT GUILTY OF THE CHARGED OFFENSES?

20. DO YOU AND THEY UNDERSTAND THAT IN THE COURSE OF A TRIAL THE WITNESSES FOR THE GOVERNMENT WOULD HAVE TO COME INTO OPEN COURT AND TESTIFY IN THE PRESENCE OF CORPORATE OFFICERS AND OF THE DEFENDANT'S LAWYER, THAT THE DEFENDANT'S LAWYER WOULD HAVE AN OPPORTUNITY TO:

- (A) CROSS-EXAMINE ANY AND ALL WITNESSES OFFERED BY THE GOVERNMENT;
- (B) OBJECT TO ANY EVIDENCE OFFERED BY THE GOVERNMENT;
AND
- (C) OFFER EVIDENCE IN THE DEFENDANT'S BEHALF?

21. DO YOU AND THEY UNDERSTAND:

- (A) THAT THE DEFENDANT WOULD HAVE THE RIGHT TO TESTIFY THROUGH ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES AT TRIAL?

22. DO YOU AND THEY UNDERSTAND THAT IF I ACCEPT THESE GUILTY PLEA[S], YOU WILL HAVE GIVEN UP THE DEFENDANT'S RIGHT TO A TRIAL AND THE OTHER RIGHTS I HAVE JUST DESCRIBED TO YOU AND THERE WILL BE NO TRIAL OF ANY KIND ON THIS INDICTMENT/INFORMATION?

23. DO YOU AND THEY UNDERSTAND THAT I WILL ENTER A JUDGMENT OF GUILTY AGAINST THE DEFENDANT ON THE CHARGES MADE IN THE

INFORMATION/INDICTMENT AND WILL SENTENCE THE DEFENDANT ON THE BASIS OF THE GUILTY PLEA AND IF ALL THAT OCCURS, THE DEFENDANT WILL HAVE NO EFFECTIVE RIGHT OF APPEAL FROM ITS CONVICTION?

24. IN LIGHT OF ALL THAT I HAVE JUST EXPLAINED TO YOU, DO YOU STILL CHOOSE TO PLEAD GUILTY ON BEHALF OF THE CORPORATE DEFENDANT TO THE CHARGES CONTAINED IN COUNTS ____ AND ____ OF THE INDICTMENT/INFORMATION?

25. **[To Lawyer]** DO YOU CONTINUE TO RECOMMEND THAT THE COURT ACCEPT THIS/THESE PLEA[S]?

26. **[To the U.S. Attorney]** PLEASE ADVISE THE COURT WHAT EVIDENCE THE GOVERNMENT WILL PRODUCE IF THIS MATTER SHOULD GO TO TRIAL?

Note: Listen to entire recital of evidence. Or, in the alternative, admit written Prosecution Version and do inquiry.

If written, do detailed inquiry to establish Defendant's agreement to accuracy of the contents of the Exhibit—Admit the exhibit into the record.

27. **[To Officer/Agent]** DID YOU HEAR THE ASSISTANT UNITED STATES ATTORNEY DESCRIBE THE EVIDENCE THE GOVERNMENT WOULD PRODUCE IF THIS MATTER WERE TO GO TO TRIAL?

28. IS THERE ANY RESPECT IN WHICH YOU OR THE OFFICERS OR DIRECTORS DISAGREE WITH ANY OF HIS/HER FACTUAL ASSERTIONS?

29. IS THE INFORMATION HE/SHE GAVE ME TRUE TO YOUR OWN PERSONAL KNOWLEDGE AND THAT OF THE OFFICERS AND DIRECTORS OF THIS CORPORATE DEFENDANT? **[or after adequate inquiry]**

[If not satisfied with the status of the factual basis of the plea—inquire of the defendant as to the essential details of the crimes to which a plea is tendered.]

30. **[To Lawyer]** MR/MS _____, ARE YOU SATISFIED FROM YOUR INVESTIGATION OF THIS CASE THAT THE GOVERNMENT CAN IN FACT PRODUCE THE EVIDENCE JUST INDICATED BY THE UNITED STATES ATTORNEY?
31. ARE YOU SATISFIED THAT THE ADMISSIBLE PORTION OF THAT EVIDENCE WOULD PERMIT A PROPERLY INSTRUCTED JURY TO DETERMINE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF [EACH OF] THE CRIME[S] CHARGED, TO WHICH IT HAS PLEADED GUILTY?
32. **I FIND THAT THERE IS A FACTUAL BASIS FOR THE GUILTY PLEA[S] TO THE CRIME[S] CHARGED IN EACH OF COUNTS ____ AND ____ OF THE INDICTMENT/INFORMATION.**
33. **[To Officer/Agent]** HAS ANYONE THREATENED THE DEFENDANT OR ITS OFFICERS, DIRECTORS, OR AGENTS, OR HAS ANYONE ATTEMPTED TO FORCE THE DEFENDANT OR THEM ON ITS BEHALF, IN ANY WAY, TO PLEAD GUILTY?

34. **[To Officer/Agent]** DOES THE CORPORATION'S WILLINGNESS TO PLEAD GUILTY ARISE FROM DISCUSSIONS WITH THE GOVERNMENT OR GOVERNMENT LAWYERS?

35. I HAVE BEFORE ME THE WRITTEN PLEA AGREEMENT.

[Explore signature, voluntariness, intelligent signing, authority to sign, intent to agree]

36. **[To Officer/Agent]** DO YOU AND THE OFFICERS AND DIRECTORS UNDERSTAND THAT THE AUTHORITY TO DETERMINE THE APPROPRIATE SENTENCE IN THIS CASE RESTS WITH ME AS THE JUDGE IN THIS COURT AND THAT I HAVE NOT YET MADE ANY DETERMINATION WHATEVER AS TO AN APPROPRIATE SENTENCE IN THIS CASE?

37. **[To Officer/Agent]** THE SENTENCE IN THIS CASE WILL BE GOVERNED BY APPLYING SENTENCING COMMISSION GUIDELINES. HAS THE CORPORATION'S LAWYER DISCUSSED WITH THE OFFICERS AND DIRECTORS HOW THE SENTENCING COMMISSION GUIDELINES MAY AFFECT THE SENTENCE IN THIS CASE?

38. **[To Officer/Agent]** I CAN'T DETERMINE THE GUIDELINE SENTENCE UNTIL AFTER I HAVE READ A PRESENTENCE REPORT THE PROBATION OFFICE WILL PREPARE, AND UNTIL I HAVE GIVEN THE CORPORATION'S LAWYER AND THE GOVERNMENT AN OPPORTUNITY TO CHALLENGE THE FACTS THE PROBATION OFFICE REPORTS. AFTER I DETERMINE WHAT GUIDELINE DOES APPLY TO A CASE, I STILL HAVE THE AUTHORITY IN SOME

CIRCUMSTANCES TO IMPOSE A SENTENCE THAT IS MORE SEVERE OR LESS SEVERE THAN THE SENTENCE CALLED FOR BY THE APPLICABLE GUIDELINE. DO YOU UNDERSTAND?

39. **[To Officer/Agent]** DO YOU AND THE OFFICERS AND DIRECTORS UNDERSTAND THAT IF THE SENTENCE THE COURT IMPOSES ON THE DEFENDANT IS MORE SEVERE THAN YOU OR THEY EXPECT OR CARE FOR, THE DEFENDANT WILL STILL BE BOUND BY ITS PLEA AND WILL HAVE NO RIGHT TO WITHDRAW IT?
40. **[To Officer/Agent]** DO YOU AND THE OFFICERS AND DIRECTORS UNDERSTAND THAT WHILE I WILL CERTAINLY ENTERTAIN AND CONSIDER ANY SENTENCING RECOMMENDATION MADE BY EITHER YOUR LAWYER OR THE GOVERNMENT'S LAWYER, SUCH RECOMMENDATION WILL NOT BE BINDING ON THE COURT WITH RESPECT TO THE SENTENCE TO BE IMPOSED?
41. **[To Officer/Agent]** ASIDE FROM THE PLEA AGREEMENT, HAS ANYONE MADE ANY PROMISE TO YOU OR TO ANY OF THE DEFENDANTS' OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES IN AN EFFORT TO INDUCE THE DEFENDANT TO PLEAD GUILTY?
42. **[To Officer/Agent]** HAS ANYONE MADE ANY PROMISE TO ANY OF YOU AS TO WHAT I WILL IMPOSE FOR A SENTENCE?
43. **[To Officer/Agent]** I ASK YOU, FINALLY, DO YOU STILL WISH TO TENDER A PLEA OF GUILTY ON BEHALF OF THE CORPORATE DEFENDANT TO THE

CHARGES CONTAINED IN COUNTS ____ AND ____ OF THE
INDICTMENT/INFORMATION?

44. **[To Lawyer]** DO YOU, THE DEFENDANT'S LAWYER, STILL RECOMMEND THAT
I ACCEPT THE PLEA OF GUILTY?

45. **[To Officer/Agent]** MR./MS. _____, SINCE THE CORPORATE
DEFENDANT ACKNOWLEDGES THAT IT IS IN FACT GUILTY AS CHARGED IN
COUNTS ____ AND ____ OF THE INDICTMENT/INFORMATION, AND SINCE I
FIND THAT IT KNOWS OF ITS RIGHT TO A TRIAL AND THE RIGHTS
ASSOCIATED WITH THE RIGHT TO A TRIAL, AND SINCE I FURTHER FIND
THAT IT KNOWS THE MAXIMUM POSSIBLE PUNISHMENT [AND MINIMUM, *if
applicable*] THAT MAY BE IMPOSED IF IT IS CONVICTED, AND SINCE I FIND
THAT IT HAS NOT BEEN COERCED BUT THAT IT HAS VOLUNTARILY AND
KNOWINGLY TENDERED A PLEA OF GUILTY TO COUNTS ____ AND ____ OF
THIS INDICTMENT/INFORMATION, I NOW ACCEPT ITS GUILTY PLEA AS
TENDERED.

**[The Court will reserve decision on the acceptance of the
Plea Agreement until it has reviewed the Presentence
Investigation Report.]**

46. THE COURT HEREBY ORDERS THE PREPARATION OF THE CUSTOMARY
PRESENTENCE INVESTIGATION REPORT.